

1
2 BILL NO. R-76-10-26

3 RESOLUTION NO. R-83-76

4 A RESOLUTION authorizing the issuance and sale of
5 \$1,500,000 Economic Development Revenue Bonds
6 (Hanover Columbus, II., Inc. (Kroger Project) of
7 the City of Fort Wayne, Indiana, for the purpose
8 of defraying the cost of acquiring facilities,
9 authorizing the execution of the necessary instru-
10 ments, providing for the pledge of revenues for
the payment of said bonds, authorizing a mortgage
and indenture of trust appropriate for the protection
and disposition of such revenues, and authorizing
the sale of said bonds.

11 WHEREAS, the City of Fort Wayne, Indiana (hereinafter
12 called the "City") is a municipal corporation and political
13 subdivision of the State of Indiana and by virtue of IC 1971,
14 18-6-4.5-1 through 18-6-4.5-29, inclusive, as amended (herein-
15 after called the "Act" is authorized and empower to acquire
16 economic development facilities as those words are defined
17 in the Act and to make such facilities available to others to
18 overcome insufficient employment opportunities and insufficient
19 diversification of industry in and near the City to promote the
20 general economic welfare of the area in and near the City and
to issue its economic development revenue bonds to pay all
21 costs of purchase or construction of such economic development
22 facilities including engineering, legal fees, and all other
23 expenses related thereto during construction, including the
24 costs of issuing the bonds and to secure said bonds by a trust
25 indenture creating a security interest in such economic develop-
26 ment facilities; and

27 WHEREAS, Hanover Columbus, II., Inc. (Kroger Project)
28 (the "Corporation") is a corporation duly organized under the
29 laws of the State of Illinois; and

30 WHEREAS, the Corporation has agreed to construct
31 economic development facilities and thereby create new employment
32 opportunities and provide diversification of industry in and
33 near the area of the City and to pay the principal of and
34 interest and premium on the economic development revenue bonds
35 hereinafter authorized; and

36 WHEREAS, the Common Council of the City (the "Common
37 Council") has heretofore by Special Ordinance No. S-19-72 and
38 pursuant to IC 1971, 18-6-4.5-1 through 18-6-4.5-29, inclusive,
39 created the Fort Wayne Economic Development Commission which
40 by virtue of the Act has become the Fort Wayne Economic
41 Development Commission (the "Commission") and the members of
42 the Commission have been duly appointed and qualified pursuant
43 to law and the Commission has organized and undertaken the duties
44 imposed upon it by the Act and has found by written resolution
45 that because of existing insufficient employment opportunities
46 and insufficient diversification of industry, the economic

47 APPROVED AS TO FORM
48 AND LEGALITY,


C.H. ATTORNEY

1
2 the economic welfare of the City would be benefited by the
3 financing of the construction of economic development facilities
4 by the Corporation; and

5 WHEREAS, the Commission has by such resolution approved
6 a Report estimating the public services which would be made
7 necessary or desirable, the expense thereof, the number of jobs,
8 economic development facilities and the cost of construction
9 of the economic development facilities and has submitted such
10 report to the City Plan Commission and the Fort Wayne Community
11 Schools; and

12 WHEREAS, said Plan Commission and Fort Wayne Community
13 Schools, upon receiving the report of the Commission, has
14 formulated written comments concerning such estimate and have
15 transmitted those comments to the Commission within the time
16 provided by law; and

17 WHEREAS, after giving notice in accordance with the
18 Act, the Commission held a public hearing on the proposed
19 financing and adopted a resolution finding the proposed financing
20 complies with the Act, approving the financing and approving
21 the form and terms of the economic development revenue bonds
22 proposed to be issued by the City to pay a portion of the cost
23 of such facilities, the Lease Agreement and Indenture, which
24 resolution and other instruments and information pertaining to
25 the proposed financing have been transmitted to the Common
26 Council of the City by the Secretary of the Commission.

27 NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL
28 OF THE CITY OF FORT WAYNE, INDIANA, AS FOLLOWS:

29 SECTION 1. Public Benefits. The Common Council
30 of the City hereby finds and determines that the facilities
31 in connection with the project ("the Project") to be acquired
32 in part with the proceeds of the Economic Development Revenue
33 Bonds (Hanover Columbus, II., Inc. Kroger Project) herein
34 authorized are "economic development facilities" as the phrase
35 is used in the Act and that the utilization of the property
36 in the creation and location of the Project is economically
37 sound will increase employment opportunities and increase
38 diversification of industry in and near the City, will improve
39 and promote the economic stability, development and welfare
40 of the area in and near the City and the location of the other
41 new industries in such area.

42 SECTION 2. Findings. The Common Council hereby
43 finds that this resolution (the "Bond Resolution") is of public
44 benefit to the economic welfare of the City, by tending to
45 overcome the deficiencies previously found to exist, to-wit:
46 insufficient employment opportunities and insufficient diversi-
47 fication of industry and recreational facilities, and that such
48 benefit is greater than the cost of public facilities (as the
49 phrase is defined in the Act), which will be required by the
50 Project.

51 SECTION 3. Authorization of \$1,500,000 Economic
52 Development Revenue Bonds. In order to pay a portion of the
53 costs of acquiring the Project, there are hereby authorized to
54 be issued, sold and delivered the \$1,500,000 aggregate principal
55 amount Economic Development Revenue Bonds Hanover Columbus, II.,
56 Inc. Kroger Project of the City. It is hereby recognized that

pursuant to the terms of the Lease Agreement, the balance of the proceeds of additional parity bonds (the "Additional Bonds") as identified in the Indenture.

1 SECTION 4. Definitions. In addition to the words and
2 terms defined in this Bond Resolution, the words and terms used
3 in this Bond Resolution shall have the meanings set forth in the
4 Indenture, the Lease Agreement and unless the context or use
5 indicates another or different meaning or intent and the form of
6 the Bond and the form of the Lease Agreement and Indenture, which
7 forms are before this meeting are hereby incorporated by refer-
8 ence in this Bond Resolution and the Clerk is hereby directed to
9 insert them into the minutes of the common council to keep them
on file.

6 SECTION 5. Terms for the Bond. The total principal
7 amount of Bond that may be issued is hereby expressly limited to
8 \$1,500,000, provided, however, that additional bonds may be
9 issued as hereinafter provided.

10 The bond shall be subject to redemption prior to
11 maturity upon the terms and as provided in the Indenture.

12 The bond shall be executed on behalf of the City with
13 the official manual or facsimile signature of the Mayor and
14 attested with the official manual or facsimile signature of
15 the Clerk and shall have impressed or imprinted thereon the
16 corporate seal of the City. The coupons attached to the Bond,
17 if any, shall be executed by the facsimile of the official
18 signatures of the Mayor and Clerk and such facsimile on any Bond
19 or coupons shall have the same force and effect as if manually
20 signed by such officer. The Bond, together with interest
21 thereon, shall be limited obligations of the City payable
22 solely from the revenues and other amounts derived from the
23 Project (except to the extent paid out of moneys attributable
24 to the Bond proceeds or the income from the temporary investment
25 thereof and under certain circumstances, proceeds from insurance
26 and condemnation awards) and shall be a valid claim of the
27 respective holders thereof only against the Bond fund created
28 under the Indenture and other moneys held by the Trustee and
29 of the Project (but in addition shall be secured by a first
30 mortgage lien on the Project), which revenues and other amounts
31 shall be pledged and secured under the Indenture for the equal
32 and ratable payment of the Bond and shall be used for no other
33 purpose than to pay the principal of, premium, if any, and the
34 interest on the Bond, except as may be otherwise expressly
35 authorized in the Indenture. The Bond and the interest thereon
 shall never constitute a charge against the general credit or
 taxing power of the City. In case any officer whose signature
 or facsimile of whose signature shall appear on the bond or
 coupons shall cease to be such officer before the delivery of
 such Bond, such signature or such facsimile shall nevertheless
 be valid and sufficient for all purposes, the same as if he had
 remained in office until delivery.

28 SECTION 6. Additional Bonds. The City may authorize
29 the issuance of Additional Bonds upon the terms and conditions
30 provided the same rank as the Bond, but shall bear such date
31 or dates, bear such interest rate or rates, have such maturity
 dates, redemption dates and redemption premiums, and be issued
 at such prices as shall be approved in writing by the City and
 the Company.

32 SECTION 7. Sale of the Bond. The Mayor and Clerk of
33 the City are hereby authorized and directed to sell the Bond.
34 The Mayor is hereby authorized to execute and the Clerk is
35 hereby authorized to attest, the Underwriting Agreement in
 the form submitted to this meeting and approved hereby, in
 the minutes of this Common Council and to certify thereon that
 the same is the form of such instrument submitted to this
 Common Council approved hereby, and identified herein as the
 Underwriting Agreement, and to keep the same on file.

1 SECTION 8. Indenture. In order to secure the payment
2 of the principal of and interest on the Bond, the Mayor and
3 Clerk shall execute, acknowledge and deliver in the name
4 on behalf of the City, a Mortgage and Indenture of Trust,
5 herein identified as and called the Indenture, in the form
6 submitted to this Common Council, which is hereby approved
7 in all respects and the Clerk is hereby directed to insert a
8 copy thereof in the form submitted to this meeting and approved
9 hereby, in the minutes of this Common Council and to certify
10 thereon and the same is the form of Indenture so submitted
11 to this Common Council and approved by this Bond Resolution
12 and identified herein as the Indenture and to keep such Indenture
13 on file. Said Indenture contains provisions authorized and
14 permitted by the Act, and this Bond Resolution shall constitute
15 a part hereof as therein provided and for all purposes of said
16 Indenture, including the provisions thereof relating to amendments
17 and the severability of provisions of the Indenture.
18

1 SECTION 9. General. The Mayor and Clerk be and they
2 are each hereby authorized and directed, in the name of and
3 on behalf of the City to execute any and all instruments,
4 perform any and all acts, approve any of them, to be necessary
5 or desirable in order to carry out the purposes of this Bond
6 Resolution (including the preambles hereto), the acquisition
7 of the Project by the Company, the issuance and sale of the
8 Bond and the securing of the Bond under the Indenture.
9

10 All documents before this meeting, including the
11 Indenture and the Lease Agreement are subject to completion
12 in conformity with this Bond Resolution. The Mayor and the
13 Clerk, and each of them is hereby authorized to execute and
14 deliver said Indenture and Lease Agreement in substantially
15 the form of said documents before this Common Council, on
16 behalf of the City, with such changes therein as such officials
17 with the advise of counsel may determine, as conclusively
18 evidenced by his execution thereof, to be advisable and in
the best interests of the City and in conformance with the
Bond Resolution.

19 SECTION 10. Prior Proceedings. All action taken
20 by the Commission in connection with the Project is, to the
21 extent not inconsistent with the Bond Resolution, ratified
and confirmed and incorporated herein.
22

23 SECTION 11. Recognition of New Legislation. It
24 is hereby recognized that pursuant to Senate Enrolled Act
25 No. 325, the Act became effective upon its approval by the
26 Governor on April 23, 1973, and that pursuant to Section 3
27 of said Act No. 325, the Commission created by Special Ordinance
28 No. S-19-72 of the City continues with the powers and duties
29 of a "development commission" under the Act.
30

31 SECTION 12. Effective Date. This Bond Resolution
32 shall be in full force and effect immediately upon its adoption
33 by the Common Council and approval by the Mayor.
34

35 
Vivian G. Schmidt
Councilman

Read the first time in full and on motion by V. Schmidt, seconded by Hinga, and duly adopted, read the second time by title and referred to the Committee on Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the day of _____, 1976, at _____ o'clock P.M., E.S.T.

DATE: 10-12-76

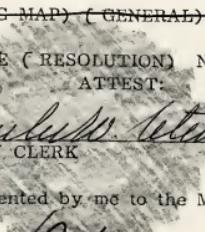
Charles W. Mesterman
CITY CLERK

Read the third time in full and on motion by V. Schmidt, seconded by Hinga, and duly adopted, placed on its passage.
PASSED ~~POST~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	<u>7</u>	<u>1</u>		<u>1</u>	
BURNS	<u>✓</u>				
HINGA	<u>✓</u>				
HUNTER	<u>✓</u>	<u>✓</u>			
MOSES	<u>✓</u>				
NUCKOLS					<u>A</u>
SCHMIDT, D.	<u>✓</u>				
SCHIMDT, V.	<u>✓</u>				
STIER	<u>✓</u>				
TALARICO	<u>✓</u>				

DATE: 10-26-76

Charles W. Mesterman
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana,
as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION)
ORDINANCE (RESOLUTION) No. Q-83-76 on the 26th day of Oct., 1976.
ATTEST: 

Charles W. Mesterman
CITY CLERK

PRESIDING OFFICER

James S. Stier

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 27th day of Oct., 1976, at the hour of 11:00 o'clock A.M., E.S.T.

Charles W. Mesterman
CITY CLERK

Approved and signed by me this 27th day of October, 1976,
at the hour of 6:00 o'clock A.M., E.S.T.

Robert Ellington
MAYOR

Bill No. R-76-10-26

REPORT OF THE COMMITTEE ON FINANCE

We, your Committee on Finance to whom was referred an Ordinance authorizing the issuance and sale of \$1,500,000 Economic Development Revenue Bonds (Hanover Columbus, II., Inc. (Kroger Project) of the City of Fort Wayne, Indiana, for the purpose of defraying the cost of acquiring facilities, authorizing the execution of the necessary instruments, providing for the pledge of revenues for the payment of said bonds, authorizing a mortgage and indenture of trust appropriate for the protection and disposition of such revenues, and authorizing the sale of said bonds.

have had said Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance No PASS.

Vivian G. Schmidt - Chairman

William T. Hinga - Vice-Chairman

Winfield C. Moses, Jr.

John Nuckols

Samuel J. Talarico

Vivian G. Schmidt
William T. Hinga
Winfield C. Moses, Jr.

10-26-76 CONCURRED IN
DATE CHARLES W. WESTERMAN, CITY CLERK

TITLE OF ORDINANCE Resolution Authorizing the City of Fort Wayne to Issue Its
"Economic Development First Mortgage Revenue Bonds"
(Hanover Columbus, II., Inc. Kroger Project)

DEPARTMENT REQUESTING ORDINANCE Economic Development Commission

BB-7610-26

SYNOPSIS OF ORDINANCE Resolution will authorize City of Fort Wayne to issue its
Economic Development First Mortgage Revenue Bonds (Hanover Columbus, II.
Inc. Kroger Project) in the amount of \$1,500,000.00 for the purpose of
procuring funds to pay the costs of acquisition, construction, and equipping
of economic development facilities and for lease of same to Hanover Columbus
II., Inc. Kroger Project.

EFFECT OF PASSAGE will authorize financing of economic development
facilities.

EFFECT OF NON-PASSAGE economic development facilities will not be financed.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) no costs to or
expenditures by the City of Fort Wayne

ASSIGNED TO COMMITTEE Finance *John*